

United States District Court

DISTRICT OF DELAWARE

In the Matter of the Search of

(Address or brief description of property or premises to be seized)

Wachovia Bank Account
Number 2000019725329

APPLICATION AND AFFIDAVIT FOR SEIZURE WARRANT

Case Number: 06- 148M

I, Peter Gangel being duly sworn depose and say: I am a(n)

Special Agent, FBI, and have reason to believe that in the Southern District of New York there is now certain

property which is subject to forfeiture to the United States, namely (describe the property to be seized)

the contents of Wachovia Bank Account No. 2000019725329

which is (state one or more bases for seizure under the United States Code)

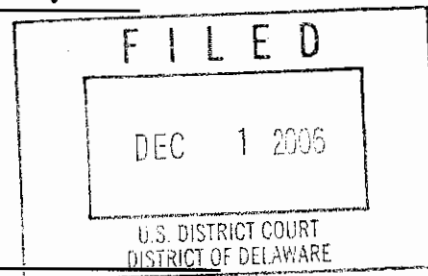
property involved in transactions in violation of 18 U.S.C. § 1960, or is traceable to such property and as such is forfeit to the United States pursuant to 18 U.S.C. § 981 (a) (1) (A)

The facts to support a finding of Probable Cause for issuance of a Seizure Warrant are as follows:

SEE ATTACHED AFFIDAVIT.

Continued on the attached sheet and made a part hereof. ☒ Yes ☐ No

Peter A. Gangel
Signature of Affiant
Peter Gangel
Special Agent
Federal Bureau of Investigation



Sworn to before me, and subscribed in my presence

December 1, 2006
Date

at Wilmington, Delaware
City and State

Honorable Mary Pat Thyng.
United States Magistrate Judge
District of Delaware

Name and Title of Judicial Officer

M. P. Thyng
Signature of Judicial Officer

AFFIDAVIT OF SPECIAL AGENT PETER A. GANGEL

1. I have been employed as a Special Agent for more than twenty years, and my responsibilities include investigating financial crimes. I have conducted or assisted in conducting numerous investigations on many types of financial crimes including money laundering, bank fraud, wire fraud, and mail fraud. I have attended many training sessions and seminars regarding the investigation and seizure of evidence relating to the investigation of financial crimes.

2. This affidavit is submitted in support of the Application of the United States of America for a Seizure Warrant authorizing the seizure of all monies and funds contained in:

a. **Citibank account number 9964154187** in the name of Space Gold LLC, 1477 Lower Water Street, Halifax, Nova Scotia, Canada at the Citibank branch located at PO 5870, Grand Central Station, New York, NY.

b. **Wachovia Bank account number 2000019725329** in the name of Space Gold LLC, 1201 North Orange Street, Suite 723, Wilmington, DE 19801, at the Wachovia Bank branch located at 535 Seventh Avenue, New York, NY.

3. This affidavit sets forth facts, and suggests reasonable inferences from those facts, that establish probable cause that Space Gold LLC, One Commerce Center, 1201 N. Orange Street, Wilmington, DE, is operating an illegal money transmitting business in violation of Title 18, United States Code, Section 1960 and Title 31, United States Code, Section 5330, and that the Citibank and Wachovia Bank accounts contain funds which are subject to seizure and forfeiture to the United States pursuant to Title 18, United States Code, Sections 981 and 984, on the grounds they constitute property involved in a violation of Title 18, United States Code, Section 1960, or property traceable to such property.

4. The statements contained in this affidavit are based upon my personal investigation, my review of information and records obtained during the course of the investigation, information provided to me by other FBI agents and law enforcement officers, communications with persons who have personal knowledge of the facts and circumstances described herein, as well as my training and experience. Because this affidavit is submitted for a limited purpose, it does not include each and every fact known to me concerning this investigation, and sets forth those facts believed necessary to establish probable cause that the Citibank and Wachovia Bank accounts are involved in a violation of 18 U.S.C. § 1960.

5. Description of Bank Accounts to be Seized

a) Citibank account #9964154187--this account was opened on July 6, 2006, by Pavel Zarva, in the name of Space Gold LLC, 1201 N. Orange Street, Suite 723, Wilmington, DE 19801. In the account application Zarva identified himself as the President and member of Space Gold LLC. The mailing address for the account is 1477 Lower Water Street, Halifax, Nova Scotia, Canada. Additionally, Zarva is listed as a Member of Space Gold LLC on the account signature card and has sole signature authority for the account.

b) Wachovia Bank account # 2000019725329--this account was opened on July 5, 2006, by Pavel Zarva who identified himself as president of Space Gold LLC and has sole signature authority for the account.

Applicable Criminal Laws and Registration Requirements of Money Service Businesses

6. Title 18 U.S.C. Section 1960 prohibits unlicensed money transmitting businesses. "Whoever knowingly conducts, controls, manages, supervises, directs, or owns all or part of an unlicensed money transmitting business" is in violation of Title 18 U.S.C. Section 1960(a).
7. Title 18 U.S.C. Section 1960(b)(1) describes an "unlicensed money transmitting business" as a "money transmitting business which affects interstate or foreign commerce in any manner" and (a) "is operated without an appropriate money transmitting license in the State where such unlicensed operation is punishable as a misdemeanor or felony under State law;" (b) "fails to comply with federal money transmitting business registration requirements under section 5330 of Title 31, United States Code;" or (c) "involves the transportation or transmission of funds known...to have been derived from a criminal offense or are intended to be used to promote or support unlawful activity."
8. The term "money transmitting" is defined in 18 U.S.C. Section 1962 (b)(2) to include "transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier." 18 U.S.C. Section 1960(b) (2).
9. Under Delaware law, the failure of a money transmitting business to obtain a license is punishable as a misdemeanor. See 5 Del. Code § 2317 and 5 Del. Code § 2303 ("No person . . . shall engage in the business of selling checks, or issuing checks, or engage in the business of receiving money for transmission or transmitting the same without first having obtained a license hereunder.") Therefore, money transmitting businesses subject to Delaware law that operate without a valid license violate 18 U.S.C. Section 1960(a) and (b) (1) (A).
10. Under Title 31 U.S.C. Section 5330 and regulations promulgated thereunder, certain money services businesses (MSBs) are required to register with the Financial Crimes Enforcement Network (FINCEN) of the U.S. Department of Treasury. MSBs must register by completing Form TD F 90-17.22.55, Registration of the Money Services Business. Registration is the responsibility of the owner or controlling person of the MSB. The owner or controlling person must sign and file the completed form with the IRS Detroit Computing Center, Money Services Business Registration.
11. Under Title 31, U.S.C., Section 5330(d)(1), and regulations promulgated thereunder, including 31 C.F.R. Sections 103.11 (uu) and 103.41, a business meets the definition of a MSB, and must register with FINCEN, if it provides one or more of the following products or services:
 - Money transmission or remittance;
 - Check cashing;
 - Issuing or redeeming money orders, traveler's checks, stored value (debit) cards, or

similar instruments;

- Currency dealing or exchange; or
- Informal money transfers.

Therefore, MSBs that operate without registering with FINCEN are in violation of 18 U.S.C. § 1960(a) and (b)(1)(B).

Background on Digital Currency Issuers and Exchangers

12. The term "digital currency" has been adopted by Internet-based "sellers" of gold, silver, platinum and other precious metals to describe the use of precious metals as a private currency for online payments. There are many types of digital currency issuers operating on the Internet. Some of the digital currency issuers which are currently operating include E-bullion, E-silver, Goldmoney, and Pecunix.

13. One of the most popular digital currency issuers is E-Gold Ltd., a Nevis corporation, which created e-gold, a private currency. E-gold is traded through the Internet and is accepted by a number of on-line merchants and vendors. According to the E-Gold Ltd.'s website (www.e-gold.com), e-gold is an electronic currency 100% backed at all times by gold bullion located in E-Gold Ltd. storage vaults. E-gold is integrated into an account based payment system that utilizes gold as money. Customers around the world may establish an e-gold account via the website. The e-gold account is denominated in gold weight, i.e., the amount of gold grams or ounces that the account holder owns. The e-gold payment system enables the e-gold account holder to transmit via the Internet specified weights of gold to other e-gold accounts. Thus, only the ownership of the gold changes while the actual gold in the E-Gold Ltd. storage vaults is never transferred. This transfer of ownership of gold through the crediting and debiting of Internet-based accounts is how E-Gold Ltd. facilitates payments on behalf of their customers. Only a valid email address is required to open an e-gold account. As a result, e-gold accounts provide a certain level of anonymity to the users.

14. Once an e-gold account is opened, it must be funded. According to the E-Gold Ltd. website, there are two ways to fund an e-gold account: 1) receive payment in e-gold from another e-gold account holder; or 2) exchange your national currency, such as U.S. dollars, for e-gold using the services of an on-line digital exchanger. An on-line digital currency exchanger will take national currency from a customer and charge a fee to exchange the currency into e-gold for purposes of funding or increasing the value of an e-gold account. By the same token, an exchanger will also "exchange" the value in an e-gold account into a national currency. Exchange companies are typically the only method by which customers can obtain the value out of an e-gold account, short of taking possession of the gold itself.

15. Each exchange company offers different methods to exchange national currency for e-gold and other digital currencies. Some exchange companies accept cash and money orders, while others accept transfers from bank accounts or credit cards. Some exchange companies provide debit cards which can be funded with digital currency. The debit card can then be used to withdraw currency at ATMs up to the value of the digital currency on deposit with the exchanger.

The exchanger generally operates independently from the digital currency issuer.

16. On-line exchange companies do not verify the identities of their customers. Due to the high service fees charged by digital currency issuers and exchange companies, a digital currency account holder can expect to spend upwards of 10-15% to maintain and/or utilize digital currency to make on-line payments. Thus, there appears to be no economically sound reason for using digital currencies; however, with the anonymity the system affords, users can escape the scrutiny of financial institutions and/or law enforcement.

Information provided by Bancorp Bank Regarding Space Gold LLC

17. On August 7, 2006, Michele Klesius, Compliance Officer, Bancorp Bank, 405 Silverside Road, Wilmington, DE provided information that Space Gold LLC, One Commerce Center, Wilmington, DE had two accounts (account numbers 2031009522 and 2032004539) which were involved in the operation of an unregistered MSB. Klesius noted that Space Gold LLC maintained a website at www.spacegold.com where the company advertised that it offered digital currency. Klesius advised that on July 31, 2006, Bancorp Bank closed the accounts of Space Gold LLC when it was determined that the Space Gold LLC was operating as an unregistered MSB. Klesius further advised that Space Gold LLC directed Bancorp Bank to wire the funds remaining in its accounts in Delaware to Citibank, New York, NY, routing number 021000089, account number 9964154187.

State and Federal License/Registration Checks

18. According to records maintained by the Delaware Department of State, Division of Corporations, Space Gold LLC is a Delaware Limited Liability Company whose registered agent is Global Corporate Services, 1201 N. Orange Street, Suite 723, Wilmington, DE. Space Gold LLC was formed on June 13, 2002, and is currently in good standing with the State of Delaware, Division of Corporations. Articles of Organization for Space Gold LLC identify Pavel Zarva, Schelkovskoye Ave 26-1-73, Moscow, 105425, Russian Federal, as a Director.

19. The Office of the State Bank Commissioner for the State of Delaware is responsible for issuing licenses to business applicants seeking to operate as a money transmitting business. On August 15, 2006, Quinn Miller, Office of the State Bank Commissioner, advised that Space Gold LLC has never applied for, or received, a license to operate as an MSB in the State of Delaware.

20. On August 11, 2006, and October 31, 2006, your affiant was advised that Space Gold LLC is not registered with FINCEN as a Money Service Business.

The Investigation

Space Gold's Website

21. Space Gold LLC advertises on its website, www.spacegold.com, that it is a U.S. based Delaware company and a "worldwide electronic currency exchange provider." The website

reflects that the company can exchange U.S. currency for electronic currency, such as e-gold, and accepts various remittance methods, including American Express credit card payments, bank wires, checks, money orders, and other payment methods. Space Gold LLC also advertises that it purchases e-gold and other electronic currencies and will deposit or wire funds into the seller's bank account.

Undercover Investigation

22. In August 2004 Special Agent Michael P. Brian, FBI, Baltimore Division, while acting in an undercover capacity, opened an e-gold account with E-Gold Ltd. In order to fund the e-gold account, SA Brian established an account with Space Gold LLC through the company's website. SA Brian wanted to exchange \$1000 in U.S. currency for e-gold. SA Brian was informed by Space Gold LLC that the fee to exchange \$1000 for an equivalent amount of e-gold was \$50.25. SA Brian was directed to mail two money orders, in the amounts of \$1000 and \$50.25, to Space Gold LLC at Bancorp Bank, 405 Silverside Road, Suite 105, Wilmington, DE. Space Gold LLC "exchanged" the \$1000 into e-gold and subsequently funded SA Brian's e-gold account.

23. On September 18, 2006, SA Brian, while acting in an undercover capacity, reactivated his Space Gold account via the company's website. SA Brian inquired about funding his Space Gold account with a money order or a bank wire transfer. In order to fund his account with a money order, the company directed SA Brian via an email to make the money order payable to Space Gold LLC and send it to Wachovia Bank, Attn: VA3289, P.O. Box 26090, Richmond, VA 23260-6090, account number 2000019725329. In order to fund his account with a bank transfer, the company directed SA Brian to wire the funds to Citibank, 401 W. 42nd Street, New York, NY 10036, routing number 021000089, account number 9964154187.

Internet Fraud Complaint

24. On June 9, 2006, the FBI Internet Fraud Complaint Center received a complaint from H.M., a resident of Alabama. H.M. advised that in April and May 2006 he placed two orders with Space Gold LLC, One Commerce Center, 1201 N. Orange Street, Wilmington, DE to exchange \$120.76 for e-gold for credit to his account. H.M. sent two postal money orders to Space Gold LLC at 405 Silverside Road, Wilmington, DE. The money orders were made payable to Space Gold LLC. H.M. alleged that one money order was cashed, yet H.M. received no e-gold credit. H.M. said he spoke to Paul Last Name Unknown at Space Gold LLC. Paul told H.M. that Space Gold LLC never received his postal money orders.

Review of Bancorp Bank Records for Space Gold (Account # 2031009522)

25. I obtained bank records from Bancorp Bank for account number 203100952 in the name of Space Gold LLC, Pavel Zarva, One Commerce Center, 1201 N. Orange Street, Suite 723, Wilmington, DE. The records reflect that the account was opened on March 11, 2003, by Pavel Zarva, who has sole signature authority on the account.

26. Furthermore, I reviewed records for Bancorp Bank account #2031009522 for the period of

April 30, 2005 to July 31, 2006 (the date the account was closed) . The records reflect that the balance in the account on April 30, 2005, was approximately \$172,410. During the above referenced time period approximately \$2,491,776 was deposited into the account. The money which was deposited into this account came in the form of numerous wire transfers, money orders, Automatic Clearing House (ACH) transfers, and American Express credit card payments. The deposits came from a multitude of individuals and businesses located throughout the United States and other countries. Many of the wire transfers noted that the funds being sent to Space Gold LLC were for the purchase of e-gold.

27. Most of the funds deposited into this account were then quickly wired or transferred out to various individuals and businesses located throughout the United States and other countries. The records reflect that from April 30, 2005, to July 31, 2006 a total of approximately \$2,662,762 was transferred out of the account. Of significant note, approximately \$315,000 of the total amount that was transferred out of this account went to bank accounts maintained by Omnipay/Gold and Silver Reserve at Regions Bank in Birmingham, AL and SEB Eesti Uhispank in Tallinn, Estonia. Gold and Silver Reserve has been identified as a Delaware corporation which operates the Internet e-gold payment system for E-Gold Ltd.

28. Similarly, during the above referenced time period \$181,000 of the total amount transferred out of the account went to Lightning Financial Group, a company which has been identified as an issuer of digital currency known as "gold globals." Additionally, another \$450,000 of the total amount transferred out of this account went to an account maintained by Ice Gold at Sampo Bank, Tallinn, Estonia and an account maintained by Any Gold Now at Commercial Capital Bank, Irvine, CA. These two companies have been identified as on-line digital currency exchange companies.

29. Based upon my review of the Bancorp Bank records, the bank activity above is indicative of a company operating as a money service business. It is apparent that the Space Gold LLC account was used primarily as a conduit to quickly transmit funds received from customers to other on-line digital currency issuers and exchange companies. Accordingly, it is reasonable to believe that Space Gold LLC was transmitting these funds pursuant to customers' instructions to buy or sell digital currency, as well as to fund e-gold accounts.

Citibank Account Activity

30. I have obtained and reviewed records from Citibank for account #9964154187 in the name of Space Gold LLC, 1477 Lower Water Street, Halifax, Nova Scotia, Canada for the period of July 6, 2006 through August 31, 2006. The records reflect that for this period approximately \$101,899 was deposited into this account. A large percentage of the money deposited into this account during this period was wired from Space Gold's account at Bancorp Bank in Delaware. The remaining deposits into this account were received in the form of either wire transfers or Automated Clearing House (ACH) payments received from numerous individuals or businesses located throughout the United States, as well as foreign countries.

31. Almost all of the funds deposited into this account during this time (approximately

\$100,235) were quickly wired out of the account to the accounts of numerous individuals and businesses at banks located in Estonia, Canada, Germany, Israel, Hungary, Indonesia, China, Portugal, and the United States.

32. On August 3, 2006, the account received an ACH credit of \$4183.63 from Goldmoney. Goldmoney has been identified as an on-line issuer of digital currency similar to E-Gold Ltd.

33. On August 1, 2006, a wire transfer in the amount of \$4693.99, was made from the Citibank account to an account in the name of GCard at Seb Eesti Uhisbank, (an Estonian Bank) located in Tallinn, Estonia. On August 31, 2006, another wire transfer, in the amount of \$3291.38, was made from the Citibank account to GCard at the same bank and account number.

34. GCard has been identified as an issuer of stored value cards and maintains a website at www.mycard.com. According to the GCard website, a customer can transmit funds to GCard via bank wire transfer, direct deposit, ACH purchase, or e-gold. GCard will then provide the customer with a stored value card which is similar to a bank debit card. The stored value card can then be used at more than 900,000 ATMs to withdraw funds which have been previously transmitted and are on deposit with GCard. While bank debit cards are usually issued in the name of individual account holders, GCard issues anonymous stored value cards.

35. Based upon my training and experience, the activity for the Citibank account is indicative of someone operating a money transmitting business. It is apparent that the account is being used as a conduit to transmit and receive funds on behalf of the customers of Space Gold LLC. The wire transfers made to GCard and the credit received from Goldmoney reflect that Space Gold LLC is transmitting and receiving funds from digital currency issuers and related companies pursuant to customers' instructions regarding the purchase or transfer of digital currency.

Wachovia Account Activity

36. I have obtained and reviewed records from Wachovia Bank for account #2000019725329 in the name of Space Gold LLC, 1201 North Orange Street, Suite 723, Wilmington, DE 19801 for the period July 5, 2006, through September 29, 2006. The records reflect that approximately \$274,878 was deposited into this account during this period. Notably, on July 26, 2006, \$70,000 was deposited into this account via a wire transfer from the Space Gold LLC account at Bancorp Bank in Delaware. The funds that were deposited into this Wachovia account were primarily received either in the form of counter deposits or American Express credit card payments.

37. Money is being transferred out of this account in the form of checks made payable to a number of businesses and individuals located throughout the United States. One check drawn on the Wachovia Space Gold LLC account was in the amount of \$500 and made payable to K.R. of Middletown, DE. On September 22, 2006, K.R. deposited the check into her account at Chestnut Run Federal Credit Union, Wilmington, DE.

38. All the amounts of the counter deposits which were made into this Wachovia account ended in different cents. For example, the records reflect the following counter deposits were made in

August 2006:

<u>Date</u>	<u>Counter Deposit Amount</u>
8/09/06	\$1050.43
8/14/06	\$214.38
8/15/06	\$210.88
8/18/06	\$315.54
8/21/06	\$982.00
8/28/06	\$160.20
8/29/06	\$896.45
8/30/06	\$110.13
8/31/06	\$40.16

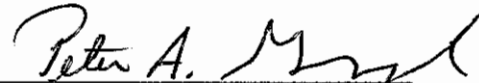
39. The amounts of the counter deposits are significant in that SA Michael Brian, while acting on-line in an undercover capacity, inquired about funding his Space Gold account (and ultimately his E-gold account) with \$1000 via a money order. SA Brian was directed to send a money order in the amount of \$1060.18 to Wachovia Bank, Attn: VA3289, P.O. Box 26090, Richmond, VA, and to add "2000019725329" in the memo field of his money order. SA Brian was also instructed to send exactly \$1060.18 because some cents were added to his total amount in order to recognize his money order and process his request for electronic currency as fast as possible.

40. The activity in this account, especially the counter deposit amounts and the large number of credit card deposits being made by American Express, reflects that the account is being utilized in the operation of an illegal money service business in that Space Gold LLC is receiving and transmitting funds pursuant to customers' instructions regarding digital currency.

/ / / /


Affiant's Conclusions

Based upon the investigation to date in this case, and on my training and experience in financial fraud investigations, it appears that from April 2005 through July 2006, Space Gold LLC in the District of Delaware and elsewhere, utilized its account at Bancorp Bank, 405 Silverside Road, Suite 105, Wilmington, DE, to control, manage, and operate an illegal, i.e. unlicensed money transmitting business in violation of 18 U.S.C. § 1960. Furthermore, when Bancorp Bank closed the accounts of Space Gold LLC in Delaware in July 2006, the company began to utilize Citibank account number 9964154187 and Wachovia Bank account number 2000019725329 to continue to operate, manage, and control in the District of Delaware and elsewhere an illegal, i.e. unlicensed, money transmitting business in violation of 18 U.S.C. § 1960. Therefore, these accounts are subject to forfeiture pursuant to 18 U.S.C. §§ 981(a)(1)(A) and 984.



Peter A. Gangel, Special Agent
Federal Bureau of Investigation

SWORN AND SUBSCRIBED TO THIS
1st day of December, 2006.


Honorable Mary Pat Chyne
United States Magistrate Judge